

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

and

KONA HONU DIVERS, INC.,

Respondent.

CASE NO. OSH 2008-5

ORDER NO. 283

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter held by the Hawaii Labor Relations Board (Board) on May 22, 2008 by conference call, and attended by Herbert B.K. Lau, Deputy Attorney General, for Complainant, and Glenn Anderson, for Respondent, by telephone, IT IS HEREBY ORDERED THAT:

1. The issues to be determined at trial are as follows:

- A. Whether Citation 1, Item 1, including the characterization as "Serious" and the associated penalty of \$375.00, resulting from Inspection No. 311431258, was valid and proper.

Citation 1, Item 1 alleged:

29 CFR 1910.101(a) [Refer to chapter 12-74.1, HAR]
was violated because:

Three oxygen cylinders were not secured which subjected employees working in the area to serious injuries from struck-by hazards.

- B. Whether Citation 1, Item 2, including the characterization as "Serious" and the associated penalty of \$375.00, resulting from Inspection No. 311431258, was valid and proper.

Citation 1, Item 2 alleged:

29 CFR 1910.304(g)(5) [Refer to chapter 12-89.1, HAR] was violated because:

A 3-wire Milwaukee Magnum hammer drill was missing the ground pin on the attachment plug. The lack of grounding exposed employees using the tool to serious injuries from electrical hazards.

- C. Whether Citation 2, Item 1, including the characterization as "Other", resulting from Inspection No. 311431258, was valid and proper.

Citation 2, Item 1 alleged:

29 CFR 1910.22(a)(1) [Refer to chapter 12-72.1, HAR] was violated because:

The area surrounding the work bench area was cluttered with miscellaneous items that created a trip and fall hazard.


2. The deadline for filing of the parties' final naming of witnesses is **June 23, 2008**. Each party shall file with the Board the original and four copies of its list of witnesses it plans to call at trial, along with the witnesses' addresses and brief summary of expected subject of their testimony, with a certificate of service to the other party, by this date. Each party shall also exchange any expert witness reports by this date.
3. The discovery cutoff date is **July 21, 2008**. All other discovery and information requests, including depositions and document requests, must be completed by this date.
4. Trial in this matter is scheduled for **August 21, 2008 at 9:00 a.m.**, in the Board's hearing room located at Room 434, 830 Punchbowl Street, Honolulu, Hawaii, 96813. The trial will continue from day-to-day until completed.
5. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS v. KONA
HONU DIVERS, INC.
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DATED: Honolulu, Hawaii, May 22, 2008.

HAWAII LABOR RELATIONS BOARD


JAMES B. NICHOLSON, Chair


EMORY J. SPRINGER, Member


SARAH R. HIRAKAMI, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General
Glenn Anderson